1 2 3 4 5 UNITED STATES DISTRICT COURT WESTERN DISTRICT OF WASHINGTON 6 AT TACOMA PREFERRED CONTRACTORS INSURANCE No. 3:21-cv-05016-JHC COMPANY, RISK RETENTION GROUP, 8 LLC, ORDER GRANTING PLAINTIFF'S MOTION TO CERTIFY DECLARATORY 9 Plaintiff, RULING PURSUANT TO FED. R. CIV. P. 54(B) 10 VS. 11 BAKER AND SON CONSTRUCTION, INC. a Washington for profit corporation; ANGELA 12 COX, as Personal Representative of the ESTATE OF RONNIE E. COX, deceased; ANGELA COX, individually and as a mother of G.C., a minor, 14 Defendants. 15 16 This matter comes before the court on Plaintiff Preferred Contractors Insurance 17 | Company's Motion to Certify Declaratory Ruling Pursuant to Fed. R. Civ. P. 54(b). Dkt. #89. 18 The Court has considered the materials filed in support of, and in opposition to, the motion, as 19 well as the rest of the case file and the applicable law. Being fully advised, the Court ORDERS 20 as follows: 21 1. Plaintiff Preferred Contractors Insurance Company's Motion to Certify 22 Declaratory Ruling Pursuant to Fed. R. Civ. P. 54(b) is hereby GRANTED. 23 Order Granting Plaintiff's Motion to Certify Declaratory Ruling Pursuant to Fed. R. Civ. P. 54(b) - 1Cause No.: 3-21-cv-05016-JHC

2. The Court finds that it has issued a final ruling on Plaintiff's claim for declaratory relief and that there is no just reason for delaying entry of final judgment in favor of Defendants on that claim.

- 3. Defendant Cox's counterclaims are STAYED pending the outcome of Plaintiff's appeal. The Court reiterates that it finds Montana law unclear on the issue at hand. *See* Dkt. # 88 at 2. But the Court is also troubled by the combination of "occurrence" and "claims made" provisions in the insurance policy at issue. Hopefully, legal clarity will be achieved on appeal.
 - 4. The Court DIRECTS the Clerk to strike the trial date.

DATED this 28th day of April, 2023.

John H. Chun

United States District Court Judge

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